

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Acampora	Team: Team # 6	CCRB Case #: 201304444	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 05/19/2013 12:01 AM	Location of Incident: East 123rd Street between 2nd Avenue and 3rd Avenue	Precinct: 25	18 Mo. SOL 11/19/2014	EO SOL 11/19/2014	
Date/Time CV Reported Sun, 05/19/2013 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/23/2013 11:29 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SSA Robert Abramson	02187	905644	PBMN SU
2. POM Joseph Gregorio	21746	938617	PBMN SU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wilfredo Acevedo	26116	937938	PBMN SU

Officer(s)	Allegation	Investigator Recommendation
A.SSA Robert Abramson	Abuse: SSA Robert Abramson authorized the stop of § 87(2)(b) [REDACTED]	
B.POM Joseph Gregorio	Abuse: PO Joseph Gregorio searched § 87(2)(b) [REDACTED]	

### Case Summary

On May 19, 2013, § 87(2)(b) filed this complaint with IAB via phone (encl. 6A-6B). On May 23, 2013, the CCRB received this complaint via IAB log number 13-21656 (encl. 7A-7B).

On May 19, 2013, at approximately 12:00 a.m., § 87(2)(b) was walking west on East 123<sup>rd</sup> Street, in between 2<sup>nd</sup> Avenue and 3<sup>rd</sup> Avenue, in Manhattan. § 87(2)(b) was approached by Sgt. Robert Abramson, PO Joseph Gregorio, and PO Wilfredo Acevedo of Patrol Borough Manhattan North Anti-Crime. As a result, the following allegations occurred:

- **Allegation A—Abuse of Authority: Sgt. Robert Abramson authorized the stop of**

§ 87(2)(b)

§ 87(2)(g)

- **Allegation B—Abuse of Authority: PO Joseph Gregorio searched** § 87(2)(b)

§ 87(2)(g)

On June 13, 2013, § 87(2)(b) agreed to mediate his complaint. § 87(2)(g)

### Results of Investigation

#### Civilian Statement

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

#### IAB Statement

On May 19, 2013, § 87(2)(b) filed this complaint with IAB via phone (encl. 6A-6B). § 87(2)(b) stated that he was ordered to stop by an unidentified male officer in a vehicle with NY license plate ending in #§ 87(2)(b). § 87(2)(b) ignored the officer and continued to walk to the corner to East 124<sup>th</sup> Street and 3<sup>rd</sup> Avenue, in Manhattan. The unidentified male officer then got out of his vehicle. § 87(2)(b) was grabbed by unidentified male officers, and one of them twisted his arm, causing pain to his shoulder and elbow.

#### CCRB Statement

On June 13, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 8A-8C). His statement is summarized below.

On May 19, 2013, at approximately 12:00 a.m., § 87(2)(b) got off the bus from work at 2<sup>nd</sup> Avenue and East 126<sup>th</sup> Street in Manhattan, and started walking to his girlfriend's apartment. § 87(2)(b) was wearing a grey jacket, red shoes, and jeans.

§ 87(2)(b) walked south down 2<sup>nd</sup> Avenue to East 123<sup>rd</sup> Street, where he stopped at a corner store. § 87(2)(b) purchased a Guinness beer (for himself) and two wine coolers (for his girlfriend). § 87(2)(b) put the items in a black plastic bag, and then continued walking west on East 123<sup>rd</sup> Street towards 3<sup>rd</sup> Avenue. § 87(2)(b) did not stop anywhere else on his walk, and did not have any physical or verbal interactions with anyone on the street. § 87(2)(b) did not open any of the drinks that he had purchased.

When § 87(2)(b) was approximately fifty feet from the corner of East 123<sup>rd</sup> Street and 3<sup>rd</sup> Avenue, an unmarked brown Chevy sedan pulled beside him and the plainclothes driver (identified by the investigation as PO Wilfredo Acevedo) told him to stop. § 87(2)(b) did not stop because the road was deserted, so he continued walking to the corner. PO Acevedo told him to stop again, and § 87(2)(b) kept walking. PO Acevedo did not say anything else, and § 87(2)(b) did not say anything to him. As § 87(2)(b) neared the corner, the vehicle continued to follow him. PO Acevedo exited his vehicle and tried to approach § 87(2)(b) but he was blocked by the row of parked cars between them, as well as some scaffolding. § 87(2)(b) described PO Acevedo as a white male who was 5'10", heavysset, and had a shield around his neck.

§ 87(2)(b) reached the corner where the scaffolding ended, and PO Acevedo approached him from the front. § 87(2)(b) screamed, "Murder! Murder! Murder!" in order to get the attention of anyone who might be around. Another plainclothes officer wearing a bulletproof vest (identified by the investigation as PO Joseph Gregorio) exited the vehicle and approached immediately after PO Acevedo. § 87(2)(b) saw the bulletproof vest, and became aware that the men were officers. The officers did not say anything to § 87(2)(b) as they approached him. § 87(2)(b) described PO Gregorio as an Asian male who was 5'10" and heavysset.

PO Acevedo pulled § 87(2)(b)'s right arm behind his back, and PO Gregorio grabbed his left arm and did the same. One of the officers § 87(2)(b) was not sure which) asked him why he was screaming. § 87(2)(b) was leaning forward with both his arms raised and twisted behind his back when a third plainclothes officer (identified by the investigation as Sgt. Robert Abramson) approached from behind them. § 87(2)(b) was unaware of Sgt. Abramson until this point. § 87(2)(b) stated that he moved and wiggled his body back and forth in response to the pain he felt after his arms were grabbed. § 87(2)(b) described Sgt. Abramson as a white male who was 5'9", slim, and wearing a white t-shirt.

One of the officers § 87(2)(b) was not sure which) looked inside § 87(2)(b)'s waistband, and then looked in the front and back of his crotch area § 87(2)(b) was wearing sweatpants underneath his jeans, and the officer looked in between his jeans and sweatpants). The officer did not make contact with § 87(2)(b)'s skin at this time. The officer did not recover anything. § 87(2)(b) did not remember the officer searching his pockets. § 87(2)(b) screamed, "Whoa-ee! Whoa-ee! Whoa-ee!" while the officer looked in his waistband area and the officers told him to shut up. § 87(2)(b) did not say anything else to the officers at this time.

The officers asked § 87(2)(b) for his identification. § 87(2)(b) asked the officers why they needed it, and what he had done. The officers did not say another word to § 87(2)(b) and walked back to their vehicle and left the scene. As the vehicle was driving away, § 87(2)(b) looked at the license plate (#1707) and memorized it. § 87(2)(b) was not handcuffed or summonsed at any point during the incident, and did not give the officers his identification.

As a result of § 87(2)(b)'s screaming, at least ten civilian witnesses responded to the scene. They told § 87(2)(b) to go report what had happened at the 25<sup>th</sup> Precinct stationhouse, rather than PSA 5. § 87(2)(b) went to the 25<sup>th</sup> Precinct, and was given the number to file his complaint with IAB.

§ 87(2)(b) stated that the back of his left forearm still hurts when he extends it. He believes he injured his arm when it struck some metal scaffolding when the officers pulled his arms back.

### **NYPD Statements:**

#### **Subject Officer: SGT. ROBERT ABRAMSON**

- § 87(2)(b) *old on the date of the incident, Sgt. Abramson is a white male who is 5'7", 170 lbs., with brown hair and brown eyes.*
- *On the date of the incident, Sgt. Abramson worked Patrol Borough Manhattan North anti-crime with PO Acevedo and PO Gregorio from 7:06 p.m. (on May 18, 2013) to 3:40 a.m. (on May 19, 2013) The officers were in plainclothes and in an unmarked tan Chevy.*

**Memo Book:** Sgt. Abramson's memo book (encl. 9A-9D) notes that at 12:10 a.m., he prepared a 250 report after one unidentified male (who refused to identify himself) was stopped, questioned, and frisked in regards to a possible CPW at the incident location. A weapon was not recovered. The man was stopped after officers observed a group of disorderly teenagers going eastbound and then saw the man in question going westbound. It appeared that one of the teenagers passed the man something (that was possibly a black plastic bag). The man then continued walking and may have placed an item in a bag. Sgt. Abramson advised the other officers he was with (PO Acevedo and PO Gregorio) to let him out of the vehicle so that he could tactically approach the male, as it was apparent that the group of teens had made them. PO Acevedo approached the man with his shield out while Sgt. Abramson approached from behind. The man was non-complaint, tensed his arms, and started yelling, "Murder!" repeatedly. The man "doubled over" and appeared to reach for something in his waistband. PO Acevedo took the man's left arm and Sgt. Abramson took his right arm.

PO Gregorio frisked him, but did not recover anything. The man's black bag had alcohol containers inside of it and one of them was opened. Sgt. Abramson attempted to ask the man if it was alcohol in his bag (because it appeared it could have been a weapon), and the man yelled at the officers to give him a ticket. Sgt. Abramson told the man he could file a complaint and to calm down. The man was intoxicated and continued yelling. The man ignored the officers' request for his identification/name, and the officers left the scene so as not to escalate the situation. The man was a black male in his 40s, who was 5'9", 170-190 lbs., with a West Indian accent, and wearing a dark hoodie.

#### **Handwritten Stop & Frisk Report, Typed Stop & Frisk Report**

The handwritten and typed Stop & Frisk Reports (encl. 10A-10B, 11A-11B) for § 87(2)(b) were prepared by Sgt. Abramson and note that he was observed at the incident location for a minute prior to the stop at 12:10 a.m. The circumstances listed that led to the stop are: furtive movements, suspicious bulge/object, and other reasonable suspicion of criminal activity. Furthermore, it is noted that § 87(2)(b) "appeared to have received item from a group of teens and then possibly concealed as police approached." § 87(2)(b) refused to give his identification, name, and address. It is noted that the officers had their hands on § 87(2)(b) because he reached for a suspected weapon. The officers identified themselves both by shield and verbally.

It is noted that § 87(2)(b) was frisked for the same reasons he was stopped. It is also noted that he was not searched and no weapons were found. § 87(2)(b)'s demeanor is listed as agitated, boisterous, and intoxicated. It is noted that § 87(2)(b) repeatedly yelled, "Murder, Murder!" The other circumstances listed for the stop were that the area has a high incidence of reported offense of type under investigation and that the time of day, day of week, and/or season corresponded to reports of criminal activity. The report was completed by Sgt. Abramson. The typed report further notes that § 87(2)(b) had an alcoholic container inside of a plastic bag and that he refused to comply with the officers' directions.

### **CCRB Statement**

On June 4, 2014, Sgt. Robert Abramson was interviewed at the CCRB (encl. 13A-13C). His statement is summarized below.

On May 19, 2013, at approximately 12:00 a.m., Sgt. Abramson, PO Acevedo, and PO Gregorio were driving in a tan Chevy on East 123<sup>rd</sup> Street in Manhattan.

Sgt. Abramson stated that there is a lot of gang activity in that area, and specifically that there was an ongoing dispute between two housing developments, so the officers were outside one of the buildings in question. Sgt. Abramson confirmed that these sorts of disputes frequently involve weapons. The officers were attempting to monitor a group of approximately ten teenagers who were walking eastbound on East 123<sup>rd</sup> Street, going from Third Avenue to Second Avenue. The teenagers were being loud and cursing.

The officers initially drove past the group, then stopped, reversed, and pulled up parallel to the teenagers on the sidewalk. Sgt. Abramson believed that the teenagers "made them" (identified them as police) at this point, but he could not recall what specifically made him think this.

While this was happening, Sgt. Abramson saw a man (identified by the investigation as § 87(2)(b)) emerge from the group walking in the opposite direction. Sgt. Abramson stated that as § 87(2)(b) passed through the group, it appeared a member of the group turned away from the police and passed § 87(2)(b) something. Sgt. Abramson believed that he did not see § 87(2)(b) holding anything before he walked through the group, and then saw him holding something as he emerged on the other side. Sgt. Abramson did not recall seeing the hands of the person who turned. Sgt. Abramson could not determine what object § 87(2)(b) was holding. The officers were approximately parallel to the group and § 87(2)(b) at this point. The group of teenagers continued eastbound while § 87(2)(b) continued westbound. Nobody in the group stopped walking at any point.

Sgt. Abramson told the other officers that he thought someone had passed § 87(2)(b) something and that he wanted to get out behind him to approach while they approached from the front. Sgt. Abramson thought that, because the group had made them, one of the members may have passed something off to § 87(2)(b) to get rid of it. The other officers let Sgt. Abramson out of the vehicle when he was approximately twenty feet away from § 87(2)(b). The officers did not say anything to § 87(2)(b) from the vehicle. The other officers pulled their vehicle up next to § 87(2)(b) and PO Acevedo exited the vehicle. PO Acevedo approached § 87(2)(b) with his shield out and § 87(2)(b) started repeatedly yelling, "Murder!" PO Gregorio got out of the car after PO Acevedo and also approached § 87(2)(b). Both officers attempted to calm § 87(2)(b) down while Sgt. Abramson closed the gap. § 87(2)(b) continued yelling.

Sgt. Abramson reached § 87(2)(b) and the other officers. PO Acevedo grabbed § 87(2)(b)'s left hand, Sgt. Abramson grabbed his right hand, and § 87(2)(b) "doubled over" and tightened his waist. This caused the officers to think that § 87(2)(b) had a weapon in his waistband. The officers held § 87(2)(b)'s arms away from his waist so that he could not reach for anything. Sgt. Abramson did not know the exact placement of § 87(2)(b)'s arms at this point in the scenario, but stated that they kept § 87(2)(b)'s arms away from his body/waistband. Sgt. Abramson did not recall if the officers pulled § 87(2)(b)'s arms behind him. Sgt. Abramson was not sure if § 87(2)(b) "doubled over" before or after the officers grabbed his arms.

While the officers were holding § 87(2)(b)'s arms, Sgt. Abramson instructed PO Gregorio to frisk him (including his waistband) and he did. § 87(2)(b) did not have anything on him. Sgt. Abramson did not see PO Gregorio go into § 87(2)(b)'s pockets. Sgt. Abramson did not recall himself or PO Acevedo frisking or searching § 87(2)(b). PO Gregorio did not make any physical contact with § 87(2)(b) other than the frisk. Sgt. Abramson did not recall if § 87(2)(b) was wearing multiple pairs of pants.

Sgt. Abramson knew that there was scaffolding in the area of the stop, but he did not recall if § 87(2)(b)'s arms hit the scaffolding at any point. Sgt. Abramson did not recall if any force was used against § 87(2)(b) other than the arm grabs. He did not recall § 87(2)(b) complaining about any arm/wrist injuries.

At some point during the stop (Sgt. Abramson did not remember when), he felt § 87(2)(b)'s bag and realized that it had cans of beer in it. Referring to his memo book, Sgt. Abramson said that he believed one of the beer cans was open, but he did not independently remember this.

After determining that § 87(2)(b) did not have a weapon on him, the officers let go of his arms and tried to calm him down. Sgt. Abramson asked § 87(2)(b) if the teenagers had passed him alcohol, but he continued yelling and told the officers to just give him a ticket. Sgt. Abramson told § 87(2)(b) that if he wanted to file a complaint he could, but that he needed to calm down. Sgt. Abramson asked § 87(2)(b) for his identification (he believed multiple times), but § 87(2)(b) refused. Sgt. Abramson did not remember how § 87(2)(b) refused to identify himself. Sgt. Abramson stated that § 87(2)(b) was being, "irrational."

The officers then got back in their vehicle and resumed patrol, so as to prevent the situation from escalating. Sgt. Abramson did not recall any other civilians being around for the incident after the group of teenagers passed. No other officers responded to the scene.

Sgt. Abramson stated that he believed § 87(2)(b) was intoxicated during the incident, and based this on his behavior and the fact that he had alcohol with him. Sgt. Abramson did not recall anything § 87(2)(b) said during the incident other than yelling, "Murder!" and telling the officers to give him a ticket.

The undersigned showed Sgt. Abramson the handwritten Stop & Frisk report that he had filled out for § 87(2)(b) and he confirmed that he had marked the reason for the stop was suspected criminal possession of a weapon and that § 87(2)(b) was intoxicated. The report did not help him remember additional details of the incident. Sgt. Abramson stated that the "furtive movements" marked referred to § 87(2)(b)'s apparent waistband reach. Sgt. Abramson did not specifically remember why, "refusal to comply with officers' orders," was marked.

**Witness Officer: PO JOSEPH GREGORIO**

- § 87(2)(b) *old on the date of the incident, PO Gregorio is a black male who is 5'8", 180 lbs., with black hair, and brown eyes.*
- *On the date of the incident, PO Gregorio worked Patrol Borough Manhattan North anti-crime with PO Acevedo and Sgt. Abramson from 7:00 p.m. (on May 18, 2013) to 3:35 a.m. (on May 19, 2013). The officers were in plainclothes and in an unmarked tan Chevy.*

**Memo Book:** PO Gregorio's memo book (encl. 15A-15C) notes that at 12:10 a.m., a person was stopped at the incident location for CPW. At 12:13 a.m., Sgt. Abramson prepared a 250 report, and there were negative results for the CPW.

**CCRB Statement**

On June 26, 2014, PO Joseph Gregorio was interviewed at the CCRB (encl. 16A-16C). His statement is summarized below.

On May 19, 2013, at approximately 12:01 a.m., PO Gregorio was driving an unmarked tan Impala on East 123<sup>rd</sup> Street in Manhattan. PO Gregorio was with Sgt. Abramson and PO Acevedo. The officers were traveling approximately 5 to 10mph and had the windows down. The officers were approaching the corner of 3<sup>rd</sup> Avenue when they stopped an individual § 87(2)(b) for suspected criminal possession of a weapon. PO Gregorio did not recall what observations were made that led to the stop, and did not recall which officer(s) made them.

The officers exited their vehicle and approached § 87(2)(b) on the sidewalk. PO Gregorio stated that he was not the first officer to make contact with § 87(2)(b) because he was the operator and exited the vehicle last. He was not sure which officer made initial contact with § 87(2)(b) immediately started screaming, "Murder!" over and over again. § 87(2)(b) was screaming towards a group of people that was approximately fifty feet further down the street. The officers did not have any interaction with the people in that group. PO Gregorio did not remember if there was any conversation between the officers and § 87(2)(b) before the officers exited their vehicle. PO Gregorio did not know if § 87(2)(b) was told to stop while they were still in the vehicle.

The officers stood a couple of feet away from § 87(2)(b) on the sidewalk and he continued to yell, "Murder!" at the top of his lungs numerous times. § 87(2)(b) attempted to push the officers away from him, and pushed his forearm towards the officers. § 87(2)(b)'s forearm made physical contact with PO Gregorio's body. PO Gregorio did not recall if § 87(2)(b) made physical contact with the other officers. § 87(2)(b) did not do anything else physically, and did not say anything other than, "Murder!"

PO Gregorio stated that § 87(2)(b) may have been intoxicated because he smelled alcohol on him and he observed a six pack of beer (with one open) in a plastic bag after § 87(2)(b) placed it on the ground. § 87(2)(b) did not remember if there was anything else in the bag.

PO Gregorio believed that § 87(2)(b) was restrained. PO Gregorio was not sure who restrained § 87(2)(b) or how. PO Gregorio did not see § 87(2)(b)'s arms make contact with any metal bars, scaffolding, etc. He did not hear § 87(2)(b) complain of any injuries, did not see him sustain any injuries, and did not see him do anything that could have led to an injury.

§ 87(2)(b) was then frisked. PO Gregorio did not recall who frisked him. The frisk was a standard frisk that included looking in the waistband area. PO Gregorio did not remember if § 87(2)(b) was wearing multiple pairs of pants, or if any officers looked in the area between his two pairs of pants. PO Gregorio did not go into § 87(2)(b)'s pockets, and he did not see any officers go into his pockets.

The officers obtained § 87(2)(b)'s information verbally and then told him to calm down and relax. § 87(2)(b) complied with the officers' orders and calmed down. PO Gregorio did not know why exactly § 87(2)(b) calmed down. The officers then got back into their car and left the scene while § 87(2)(b) walked away from them. No other officers responded to the scene. The entire incident lasted approximately three to five minutes.

The undersigned showed PO Gregorio the handwritten Stop & Frisk report that was filled out by Sgt. Abramson. The undersigned asked why, "hands on suspect," was checked off and PO Gregorio said that it referred to the officers restraining § 87(2)(b). PO Gregorio did not recall any officers making physical contact with § 87(2)(b) other than restraining him. When asked about the section of the Stop & Frisk report that stated that § 87(2)(b) appeared to have been passed an item from teens, PO Gregorio said that he did not remember what that was in reference to. PO Gregorio also stated that he did not know what the furtive movements and bulge noted were in reference to.

**Witness Officer: PO WILFREDO ACEVEDO**

- § 87(2)(b) old on the date of the incident, PO Acevedo is a Hispanic male, who is 6'0", 290 lbs., with black hair, and brown eyes.
- On the date of the incident, PO Acevedo worked Patrol Borough Manhattan North anti-crime with Sgt. Abramson and PO Gregorio from 7:00 p.m. (on May 18, 2013) to 3:35 a.m. (on May 19, 2013). The officers were in plainclothes.

**Memo Book:** PO Acevedo's memo book (encl. 17A-17B) notes that at 12:10 a.m. a Stop & Frisk Report was prepared, but that the stopped individual refused to provide their information.

**CCRB Statement**

On July 30, 2014, PO Wilfredo Acevedo was interviewed at the CCRB (encl. 18A-18B). His statement is summarized below.

PO Acevedo had no memory of the incident in question. The undersigned gave PO Acevedo general background information about the incident and showed a photo of § 87(2)(b) but he stated that he did not recall it. The undersigned showed the typed and handwritten Stop & Frisk Reports to PO Acevedo, but they also did not help refresh his memory of the incident. He only knew that a stop occurred because of his memo book entry, but had not independent recollection of it.



### Status of Civil Proceedings

- On August 6, 2014, a FOIL request for a notice of claim was submitted (encl. 27A).

### Civilian's Criminal History

- § 87(2)(b) [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]

### Civilian's CCRB History

- § 87(2)(b) [REDACTED]
  - [REDACTED]  
[REDACTED]

### Subject Officers' CCRB History

- Sgt. Abramson has been a member of the service for twenty years and there are three substantiated CCRB allegations against him (encl. 2A-2B):
  - In CCRB case number 201105391, allegations of a stop and two frisks were substantiated against Sgt. Abramson. The CCRB recommended charges for all three allegations, and the NYPD imposed instructions for the frisks and no disciplinary action for the stop.
- PO Gregorio has been a member of the service for nine years and there are no substantiated CCRB allegations against him (encl. 3A).

### Conclusion

### Identification of Subject Officers

Sgt. Abramson stated that he authorized the stop of § 87(2)(b) [REDACTED] and that PO Gregorio was the officer who physically interacted with § 87(2)(b) [REDACTED]'s person. § 87(2)(g) [REDACTED]  
[REDACTED]

### Allegations Not Pleaded

§ 87(2)(g) [REDACTED]  
[REDACTED] § 87(2)(b) [REDACTED] stated that an officer twisted his arm, causing pain during his IAB complaint, but did not repeat it during his CCRB Statement. § 87(2)(g) [REDACTED]  
[REDACTED]

Sgt. Abramson stated that he authorized PO Gregorio to frisk § 87(2)(b) [REDACTED] during the incident. However, § 87(2)(b) [REDACTED] did not make this allegation during his statement. § 87(2)(g) [REDACTED]  
[REDACTED]

## **Investigative Findings and Recommendations**

### **Allegation A—Abuse of Authority: Sgt. Robert Abramson authorized the stop of § 87(2)(b)**

It is undisputed that the officers approached § 87(2)(b) and § 87(2)(b) repeatedly screamed, “Murder!” on the street. The officers subsequently effected a stop by grabbing § 87(2)(b)’s arms.

§ 87(2)(b) testified that his yelling, “Murder!” caused a crowd of approximately ten people to gather. While the officers did not mention a crowd gathering because of § 87(2)(b)’s behavior, Sgt. Abramson identified a similarly described group’s presence just prior to § 87(2)(b)’s outburst. Therefore, it is reasonable to conclude that the group took notice of § 87(2)(b) yelling, “Murder!” on an otherwise quiet street. Sgt. Abramson further testified that in grabbing § 87(2)(b)’s arms, the officers were trying to calm § 87(2)(b) down and they ultimately chose to release him shortly thereafter in order to prevent the incident from escalating further.

New York Penal Law 240.20 (subsection 2) states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, they make unreasonable noise (encl. 1A-1B).

§ 87(2)(g)

§ 87(2)(g)

### **Allegation B—Abuse of Authority: PO Joseph Gregorio searched § 87(2)(b)**

§ 87(2)(b) stated that one of the officers (he was not sure which) looked in his waistband, and then looked in the front and back of his crotch area. He was wearing sweatpants underneath his jeans, and the officer looked in between his jeans and sweatpants. The officer did not make contact with § 87(2)(b)’s skin.

Sgt. Abramson stated that he instructed PO Gregorio to frisk § 87(2)(b) and PO Gregorio complied. Sgt. Abramson said that none of the officers searched § 87(2)(b). PO Gregorio did not recall who frisked § 87(2)(b) but said that the frisk was a standard one that included looking in the waistband area. He did not, however, describe this action in detail and seemed to be providing a description of police functions in general rather than a specific memory of the above frisk. Furthermore, neither Sgt. Abramson nor PO Gregorio remembered if § 87(2)(b) was wearing multiple pairs of pants.

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date